

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAVIER LOPEZ-SANTOS, aka  
ARNULFO GOMEZ MENDEZ,

Defendant.

NOS. CR-02-2202-RHW  
CV-11-3014-RHW**ORDER DISMISSING 28 U.S.C. §  
2255 PETITION**

Defendant is currently in federal custody serving a 188 month sentence. In lieu of going to trial on the charge of Conspiracy to Distribute Over 100 Grams of Heroin, Defendant and the Government negotiated a plea agreement to which Defendant agreed (ECF No. 33). The Court accepted Defendant's plea and sentenced him on October 31, 2003. He now petitions the Court to set aside, vacate, or correct that sentence under 28 U.S.C. § 2255.

Because Defendant's sentence was imposed after 1996, his petition is subject to the time limitations proscribed by the Antiterrorism and Effective Death Penalty Act (AEDPA). AEDPA requires petitions like Defendant's to be filed no later than one year from date of final judgment. 28 U.S.C. § 2255(f). The Ninth Circuit issued an opinion affirming this Court on September 20, 2004. The United States Supreme Court denied certiorari on January 10, 2005. *Lopez-Santos v. United States*, 543 U.S. 1076 (2005). Defendant's judgment became final on that date. 28 U.S.C. § 2255(f)(1).

Defendant filed this action on January 27, 2011, well outside the one-year limitations period. As a result, his petition is barred from federal court review and is dismissed.

Accordingly, **IT IS HEREBY ORDERED:**

**ORDER DISMISSING 28 U.S.C. § 2255 PETITION \* 1**

1           1.     Defendant's Petition to Set Aside, Vacate, or Correct Sentence (ECF No.  
2 60) is **DISMISSED**, with prejudice.

3           **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
4 order, provide a copy to Defendant, and **close the file**.

5           **DATED** this 13th day of June, 2011.

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7                               *s/Robert H. Whaley*  
8                               **ROBERT H. WHALEY**  
9                               United States District Judge

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